

REASONS FOR ALLOWANCE

Response to Arguments

Applicant's arguments, filed 7/26/2010, with respect to the Strom reference have been fully considered and are persuasive. Specifically, as argued on pages 9-10 of the remarks, Examiner misinterpreted Strom. Strom merely switches between a supported ventilation mode and a controlled ventilation mode, whether that mode (either supported or controlled) is pressure or volume supported is set by the operator before operation of the device. Therefore, the rejections of claims 1-16 involving Strom have been withdrawn.

The following is an examiner's statement of reasons for allowance: the prior art of record does not disclose the combination of limitations found in independent claims 1, 12, and 14. Specifically, the prior art of record does not disclose a breathing assistance device or method that includes the claimed comparator being connected to a switch whose position determines if the device operates in a barometric or a volumetric mode in real time operation of the device and controlled by a separate control unit that controls an inhalation valve and receives sensor signals.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3771

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTEN C. MATTER whose telephone number is (571)272-5270. The examiner can normally be reached on Monday - Friday 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kristen C. Matter/
Examiner, Art Unit 3771

/Justine R Yu/
Supervisory Patent Examiner, Art Unit 3771